

9 FAM 42.32(D)(5) NOTES

(CT:VISA-683; 01-31-2005)

(Office of Origin: CA/VO/L/R)

9 FAM 42.32(D)(5) N1 INTELSAT EMPLOYEES

(TL:VISA-332; 11-15-2001)

For the purpose of INA 101(a)(27)(I), INTELSAT shall be considered an International Organization. (See section 301 of Public Law 106-396.)

9 FAM 42.32(D)(5) N2 SPECIAL IMMIGRANT STATUS UNDER INA 101(A)(27)(I) OR (L)

(TL:VISA-185; 02-26-1999)

An applicant eligible for status as a special immigrant under INA 101(a)(27)(I) or (L) must also be the beneficiary of an approved employment-based fourth preference petition. For a statutory description of qualifications for special immigrant status under INA 101(a)(27)(I) and (L), (see 9 FAM 42.32(d)(5) Related Statutory Provisions).

9 FAM 42.32(D)(5) N3 REQUIREMENTS FOR STATUS UNDER INA 101(A)(27)(I) OR (L)

9 FAM 42.32(d)(5) N3.1 Unmarried Sons or Daughters of Certain Present or Former Officers or Employees of an International Organization or NATO

9 FAM 42.32(d)(5) N3.1-1 Residence and Physical Presence Requirements

(TL:VISA-185; 02-26-1999)

The applicant, while maintaining nonimmigrant G, N or NATO status, must have resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a

visa or for adjustment of status, **AND** for a period or periods aggregating at least seven years between the ages of five and 21 years.

9 FAM 42.32(d)(5) N3.1-2 Admission Requirements

(TL:VISA-54; 02-28-1992)

The applicant must apply for a visa or adjustment of status no later than his or her twenty-fifth birthday.

9 FAM 42.32(d)(5) N3.2 Surviving Spouse of Deceased Officer or Employee of an International Organization or NATO

9 FAM 42.32(d)(5) N3.2-1 Residence and Physical Presence Requirements

(TL:VISA-185; 02-26-1999)

The applicant, while maintaining nonimmigrant G, N or NATO status, must have resided and been physically present in the United States for periods totaling at least one half of the seven years before the date of application for a visa or for adjustment of status **AND** for a period or periods aggregating at least 15 years before the date of death of the international organization employee.

9 FAM 42.32(d)(5) N3.2-2 Application Requirements

(TL:VISA-54; 02-28-1992)

The applicant must apply for a visa or adjustment of status no later than six months after the death of an officer or employee of an international organization.

9 FAM 42.32(d)(5) N3.3 Certain Retired Officers or Employees of an International Organization or NATO

9 FAM 42.32(d)(5) N3.3-1 Residence and Physical Presence Requirements

(TL:VISA-54; 02-28-1992)

The applicant, while maintaining nonimmigrant G, N or NATO status, must have resided and been physically present in the United States for periods totaling at least one-half of the seven years before the date of application for a visa or for adjustment of status **AND** for a period or periods aggregating at least 15 years before the date of the international employee's retirement.

9 FAM 42.32(d)(5) N3.3-2 Application Requirements

(CT:VISA-683; 01-31-2005)

The applicant must apply for a visa or adjustment of status no later than six months after the date of retirement. The *Department of Homeland Security (DHS)* has determined that although petitions must be filed no later than six months after the alien retires; visas may be issued after that date.

9 FAM 42.32(d)(5) N3.4 Spouses of Certain Retired Officers or Employees of an International Organization or NATO

(CT:VISA-683; 01-31-2005)

The applicant must be "accompanying" or "following-to-join" the retired officer or employee who meets the qualification outlined under 9 FAM 42.32(d)(5) *N3.3* above.

9 FAM 42.32(D)(5) N4 SPECIFIC CRITERIA TO ESTABLISH ENTITLEMENT TO SPECIAL IMMIGRANT STATUS UNDER INA 101(A)(27)(I) OR (L)

(CT:VISA-683; 01-31-2005)

- a. The *Department of Homeland Security (DHS)* requires evidence that the petition beneficiary (who may also be the petitioner) is entitled to special immigrant status under INA 101(a)(27)(I) or (L) in connection with adjudicating the employment-based fourth preference petition. The specific criteria *DHS* will assess include:
 - (1) Employment with, or relationship to an employee of, an international organization or NATO;
 - (2) Length of residence (as defined in INA 101(a)(33)) in the United

States;

- (3) Length of physical presence in the United States;
 - (4) Maintenance of G-4, N or NATO status; and
 - (5) Timing of application.
- b. Because the beneficiary class includes only aliens who are or have been in the United States, *DHS* records can constitute the most compelling evidence for entitlement to status.

9 FAM 42.32(D)(5) N5 TIMELINESS OF APPLICATION

(TL:VISA-185; 02-26-1999)

Department of State regulation 22 CFR 42.32(d)(5)(ii) requires that an alien who qualifies under INA 101(a)(27)(I) or (L) be issued an immigrant visa within six months of establishing entitlement to status.

9 FAM 42.32(D)(5) N6 NO DERIVATIVE STATUS

(TL:VISA-185; 02-26-1999)

Except for aliens entitled to status under INA 101(a)(27)(I)(iv), there is no derivative status provided under INA 101(a)(27)(I) or (L).